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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,219	01/28/2004	Michael W. Stephens	STEPHENS 1	2889

31704 7590 06/22/2005

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,219	Applicant(s) STEPHENS, MICHAEL W.	
	Examiner Cephia D. Toomer	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: <u>7/04; 3/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-37 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 11, 15, 16 and 26, the terms "small" and "large" are relative terms that do not have a comparative value.

Claim 26 and its dependents are rejected because it is not clear if the combustible material is actually inside of the package. Clarification and/or correction are required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 11 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by ALDRICH.

Aldrich teaches heavy-duty polypropylene funnels. These funnels are conical in shape with an opening that is larger than the opposing opening. See product sheet.

Accordingly, ALDRICH teaching all the limitations of the claims anticipates the claims.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 3, 5, 7, 8, 11, 13, 15, 26-28, 30 and 36 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 03/080770.

WO teaches a device for lighting a fire consisting of a combustible cone-shaped grille made of wood. The grille contains a central hole for the head of the grille and the bottom is a circular hole larger than that in the head of the grille. The sides of the grille are opened. See abstracts in their entireties.

Accordingly, WO teaching all the limitations of the claims anticipates the claims.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 8 and 10-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Saunders (US 6,790,244).

Saunders teaches a stackable charcoal briquette that has a convex bottom and a concave top wherein the concavity is a surface resembling a cone (see abstract; col. 5, line 65 through col. 6, lines 1-4). The briquette has a larger opening at the bottom as compared to the top (see drawings). The briquettes are packaged in a box and the package weighs approximately 1 pound (see col. 6, lines 9-26).

Accordingly, Saunders teaching all the limitations of the claims anticipates the claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9, 10 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/080770.

WO has been discussed above. WO fails to teach the cross-sectional thickness of the grille or the weight of the grille. However, the thickness of the walls is a result effective variable that may be optimized according to one's desire to control the rate of combustion of the grille. With respect to the weight of the combustible product of WO, this too is a result effective variable that may be optimized for the best results. The skilled artisan recognizes that the heavier the grille the longer it will burn. Furthermore, limitations relating to the size of the grille are not sufficient to patentably distinguish

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over the prior art given that the prior art grille performs the same function as the combustible product of the present claims.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders (US 6,790,244).

Saunders has been discussed above. Saunders fails to teach the cross-sectional thickness of the charcoal. However, the thickness of the walls is a result effective variable that may be optimized according to one's desire to control the rate of combustion of the charcoal.

11. Claims 16-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders (US 6,790,244) as applied to claims above, and further in view of Banks (US 242,741).

Saunders has been discussed above. Saunders fails to teach the claimed material for combining the combustible products. However, Banks teaches this difference.

Banks teaches fire kindling wherein the kindling is attached by wire (see lines 8-19).

It would have been obvious to one of ordinary skill in the art to have attached the combustible products by use of wire because Banks teaches that it is conventional to prepare combustible products in the manner in order to prevent the products from falling through the grate or packing together and smothering out (see lines 31-36).

While Banks does not teach using a string to bind the products together, it would have been obvious to one of ordinary skill in the art to have used string for the same

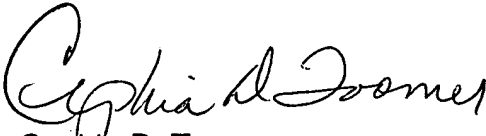
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reason that Banks uses wire and also because it is combustible and would burn with the combustible product and not a residue that would need to be removed after the fire dies out.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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